*****

In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 2.8.2007.

1. FAO No.4912 of 2006.

Ram Kumar and another. ... Appellants.

vs

Mohammad Rashid and others. .... Respondents.

2. FAO No.4913 of 2006.

Smt. Kamli Devi and another. ... Appellants.

vs

Mohammad Rashid and others. .... Respondents.

Before : Hon'ble Mr. Justice R.S.Madan.

Present: Mr.Surinder Gandhi,Advocate,for the appellants.

Judgment.

R.S.Madan, J.

By this judgment, I propose to dispose of two appeals bearing FAO No.4912 of 2006, titled as Ram Kumar and another vs Mohammad Rashid and others and FAO No.4913 of 2006, titled as Smt. Kamli Devi and another vs Mohammad Rashid and others, which have arisen out of a common award dated 31.3.2006, passed by the Motor Accident Claims Tribunal, Bhiwani (for short, “the Tribunal”).

Brief facts of the case as emerged from the claim petition are that on 5.4.2005, Pardeep Kumar was travelling as cleaner on truck No.HR-38-4877, which was driven by Satbir. At about 2 a.m. (mid night), when it reached near speed-breaker, another truck having registration No.UP-21 9552, being driven by respondent no.1 (Mohammad Rashid) rashly, negligently, at a very high speed came from opposite side resulting in head

*****

on collusion with that. In the said accident, Pardeep Kumar and Satbir breathed their last.

This accident was witnessed by driver of another truck. However, respondent no.1, was alleged to have connived with the police and managed to get a false report recorded by twisting the actual facts.

In the claim petitions, the parents of deceased Pardeep Kumar have claimed a sum of Rs.30 lacs as compensation. Smt.Kamli Devi etc. have claimed Rs.40 lacs as compensation for the untimely death of Satbir.

In their written statements, respondents no.1 to 3 admitted the factum of accident. However, respondent no.4 the Oriental Insurance Company Limited in its written statement took up the main plea that accident took place due to rash and negligent driving of driver of truck No.HR-38-4877, which was driven by Satbir (deceased) and he was not a qualified driver and was not holding a valid and effective driving licence.

On the pleadings of the parties, the following issues were framed:-

1. Whether the accident which took place on 5.4.2004 was because of rash and negligent driving of respondent no.1, while driving the truck No.UP-21/9552, If so , its effect? OPP
2. Whether petitioners are entitled to receive compensation, if so, how much and from whom?OPP
3. Whether respondent no.1 was not holding the valid and effective driving licence on the date of alleged accident, if so, its effect? OPR No.4
4. Relief.

Both the parties adduced evidence in respect of their claims set

*****

up in the claim petitions.

After evaluating the evidence of the parties, the Tribunal awarded compensation to the tune of Rs.2,04,000/-, in respect of the untimely death of Pardeep Kumar and a sum of Rs.1,72,000/- in respect of the death of Satbir. The Tribunal also awarded interest at the rate of 7.5% per annum, from the date of filing of their respective claim petitions, till realisation.

The appellants have approached this court through these appeals and have prayed that the compensation amount be enhanced and interest @ 12% may be awarded instead of 7.5%. It has also been pleaded that in the case of Pardeep (deceased) the multiplier of 18 was required to be applied by the Tribunal instead of 12. In the case of Satbir (deceased) the multiplier of 16 was required to be applied instead of 10.

Learned counsel for the appellants contended that the learned Tribunal has erred in not taking into consideration the income of deceased Pardeep Kumar as Rs.5000/- per month despite the fact that there is clear cut statement of his father to this effect. The contention of the learned counsel lacks force for the reason that no documentary evidence was placed on the record by the legal heirs of the deceased Pardeep to prove that the deceased was earning Rs.5000/- per month. In the absence thereof, the Tribunal has rightly assessed the income of the deceased as Rs.2100/- per month. Similarly, no documentary proof was placed on the record by the legal heirs of deceased Satbir in respect of his income. The Tribunal has rightly assessed the income of Satbir as Rs.2100/- per month and multiplier of 10 was adopted while granting compensation.

*****

It is admitted that Pardeep Kumar was unmarried and was 25 years of age at the time of his death and it was expected that after one or two years he would have married and would have a family consisting of his wife and children. But in that event dependency of the claimants would have been reduced as he would have to maintain his family, and the Tribunal has rightly awarded the compensation by applying a reasonable multiplier. The Tribunal has also rightly granted funeral expenses and transportation charges to the claimants.

In both the claim petitions, the Tribunal has rightly awarded compensation after assessing the income of the deceased. I find no ground to enhance the compensation in both these appeals. Hence, there is no merit in these appeals and these are accordingly dismissed, in limine.

2.8.2007. (R.S.Madan)
vs. Judge.